

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

**Case No. CBA-560-A**

**PETITION OF NATIONAL 4-H COUNCIL**  
**(formerly National 4-H Club Foundation)**

**OPINION OF THE BOARD**

(Public Hearing Date: November 14, 2001)  
(Effective Date of Opinion: January 25, 2002)

Case Number CBA-560-A is an application for a modification to a special exception pursuant to Section 59-G-2.19 (Private Educational Institution) of the Montgomery County Zoning Ordinance to permit the construction and operation of a one-story, 2,910 square foot, expansion to the existing dining facility.

Pursuant to Sections 59-A-4.11 and 59-G-1.3(C)(2) of the Zoning Ordinance, the Board of Appeals held a public hearing on the application on Wednesday, November 14, 2001. Mr. Paul Kohler appeared on behalf of the National 4-H Council. He called John Thomas, Architect, and Don Carter, of Carter Engineering, as witnesses.

Martin Klauber, Peoples' Counsel sent the Board a letter, entered as Exhibit No. 20, supporting the requested modification

Decision of the Board:	Requested Modification <b>Granted</b> subject to conditions enumerated below.
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**EVIDENCE PRESENTED**

1. The subject property is Lot 1, Block 5, Chevy Chase Section 4 Subdivision, located at 7100 Connecticut Avenue, Chevy Chase, Maryland, in the R-60 Zone.
2. Mr. Thomas testified that the requested modification will permit construction of a dining room addition to the existing dining hall. The proposed addition of 2,910 square feet will permit an additional 187 seats. A new patio outside the addition is also proposed. The modification will also improve compliance of the dining facility with the Americans With Disabilities Act. [Exhibit Nos. 6, 7 and 8].
3. No increase above current levels in programming or other use of the facilities is proposed.
4. MNCPPC staff reviewed the application and recommend approval, with conditions [Exhibit No. 19].
5. The modification will conform to the development standards for the R-60 Zone. The campus is comprised of 12.5 acres. The minimum lot size for the R-60 Zone is 6,000 square feet. The existing buildings are set back well in excess of the required 25 foot minimum front yard, 8 foot side yard and 20 foot rear yard setbacks. The proposed dining room addition will reduce the front yard setback from 130 feet to 109 feet. This remains substantially greater than the minimum requirement. The existing

side yard setback of 90 feet will remain unchanged. The traffic patterns, character of physical activity, and student density will remain the same. [Exhibit Nos. 6, 7, 8 and 19].

6. Exterior illumination will utilize wall-mounted and bollard style fixtures. Three existing wall mounted fixtures, required by building code for each of the exits, will be retained. These fixtures utilize 75-watt bulbs. Four existing bollard fixtures will be relocated along the edge of the new patio and supplemented by eight additional bollards to improve safety and access to a nearby sidewalk. The bollards are 3 1/2 feet high and utilize 50-watt bulbs. [Exhibits 1,4, and attachment to 19 - Landscape and Lighting Plan].

## **FINDINGS OF THE BOARD**

Sec. 59-G-1.2. Conditions for granting a special exception.

*59-G-1.2.1. Standard for evaluation. A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception.*

The Board concurs with technical staff's finding that the inherent and non-inherent adverse effects of the existing use are presumed to have been addressed at the time of the original special exception approval. The modification will not have an adverse impact on the inherent of the use. The dining room addition will improve the efficiency and capacity of the dining facilities with no increase in the overall level of physical activity. There will be no increase in traffic generated by the use, all development standards will be satisfied, ample buffering is provided and lighting will not adversely affect neighboring properties. There are no non-inherent adverse effects associated with the modification that would warrant denial of the application.

*59-G-1.21. General Conditions.*

*(a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:*

*(1) Is a permissible special exception in the zone.*

Pursuant to Section 59-C-1.31 of the Zoning Ordinance, a private educational institution is permitted by special exception in the R-60 Zone.

*(2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

As set forth below, the special exception as modified, will continue in compliance with these requirements.

- (3) *Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the commission. Any decision to grant or deny special exception must be consistent with any recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

The subject property is covered by the 1990 Bethesda-Chevy Chase Master Plan. The Master Plan supports the existing R-60 Zone for the subject property and private educational institutions are allowed by special exception in that zone.

- (4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.*

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The one-story dining room addition is designed to complement the architectural style of the existing building, incorporating some of the same architectural features. It will be well set back and buffered from view by existing mature trees. Additional landscaping is proposed along the edge of the patio. There will be no increase in activity or traffic.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The dining room addition will have a separate HVAC system, but this should not result in objectionable noise. The existing kitchen, storage, and trash removal facilities will accommodate the expansion with no further changes. Exterior illumination will not change significantly.

- (7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendation of a master or sector plan do not alter the nature of an area.*

The requested modification will not increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area.

- (8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The modification will improve the level of service to visitors and employees of the institution. The dining room addition will be equipped with a sprinkler system.

- (9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer public roads, storm drainage and other public facilities.*

- (i) *If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.*

The use will continue to be served by adequate public facilities. The subject property is recorded by plat of subdivision and will not require approval of a preliminary plan of subdivision.

- (ii) *With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.*

The proposed modification will not increase traffic to or from the site, and thus will have no impact on adjacent public roads.

#### **Sec. 59-G-2.19. Educational institutions, private.**

- (a) **Generally.** *A lot, tract or parcel of land may be allowed to be used for a private educational institution upon a finding by the board:*

- (1) *That such use will not constitute a nuisance because of traffic, number of students, noise, type of physical activity or any other element which is incompatible with the environment and character of the surrounding neighborhood; and*

There will be no increase in traffic, students, noise or any type of physical activity. The dining room addition will improve the capacity of the dining facilities without increasing the overall level of physical activity.

- (2) *That, except for buildings and additions thereto completed, or for which building permits have been obtained prior to the time of adoption of this section, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood, and, in the event such building is to be located on a lot, tract or parcel of land 2 acres or less, in either an undeveloped area or an area substantially developed with single-family homes, that the exterior architecture of such building will be of a residential home design, and at least comparable to existing residential homes, if any, in the immediate neighborhood; and*

The existing buildings for the special exception have been found by the Board of Appeals to be architecturally compatible with the surrounding neighborhood. The proposed dining room addition will incorporate architectural elements of the colonial style of the existing building.

- (3) *That such use will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community; and*

The proposed, one-story dining room addition will not increase physical activity or traffic to the site, is well-buffered by setbacks and mature trees, and is designed to be architecturally harmonious with the existing building. It will, therefore, not adversely affect or change the present character or future development of the surrounding residential community.

- (4) *That such use can and will be developed in conformity with the following area, density, building coverage, frontage, setback, access and screening requirements, where specified;*
- a. *Area, frontage and setback – As shall be specified in a site plan of development approved by the board; provided, that in no event shall such standards be less than the area regulations for the zone in which the private educational institution is proposed to be located; and*
  - b. *Access, building coverage and screening – As shall be specified in a site plan of development approved by the board; and*
  - c. **Density** – *Such density, being the allowable number of pupils per acre permitted to occupy the premises at any one time as shall be specified by the board upon consideration of the following factors:*
    - 1. *Traffic patterns, including:*
      - a) *Impact of increased traffic on residential streets;*
      - b) *Existence of arterial highways; and*
    - 2. *Noise or type of physical activity; and*
    - 3. *Character, percentage and density of existing development and zoning within the community; and*
    - 4. *Topography of the land to be used for the special exception:*
    - 5. *Provided that a density in excess of 87 pupils per acre may only be permitted upon a finding that (a) the program of instruction, special characteristics of students, or other circumstances justify reduced space and facility requirements; and (b) the additional density will not adversely affect adjacent properties; (c) additional traffic generated by the additional density will not adversely affect the surrounding streets; and (d) adequate provisions for drop-off and pick-up of students will be provided.*

The modification will conform to the development standards for the R-60 Zone. The traffic patterns, character of physical activity, and student density will remain the same.

(b) **Site plan.**

- (1) *In addition to submitting such other information as may be required, an applicant shall submit with his application a site plan of proposed development. Such plan shall show the size and shape of the subject property, the location thereon of all buildings and structures, the area devoted to parking and recreation facilities, all access roads and drives, the topography and existing major vegetation features, the proposed grading, landscaping and screening plans and such other features necessary for the evaluation of the plan.*

The applicant has submitted a site plan, which is entered into the record as Exhibit No. 7.

Therefore, based upon the foregoing, the Board finds that the requested special exception modification can be granted. On a motion by Allison I. Fultz, seconded by Angelo M. Caputo, with Donna L. Barron, Louise L. Mayer and Donald H. Spence, Jr., Chairman in agreement, the Board adopted the following Resolution:

BE IT RESOLVED BY THE BOARD OF APPEALS for Montgomery County, Maryland that the Opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled case.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 25<sup>th</sup> day of January, 2002.

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Katherine Freeman  
Executive Secretary to the Board

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.